

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

-----X
MICHAEL MCCALLION,

Plaintiff,

**Declaration of
Michael McCallion**

-against-

C.O. MATTHEW MARRA,
SGT. JOSEPH COFFEY,
C.O. MARCUS HART,
C.O. SHAWN BARBARITO,
C.O. GORDON GRIFFITH,
C.O. CRAIG WEIDNER and
C.O. KREG JACKSON,

Case No. 9:22-cv-00253

Defendants.

-----X

Michael McCallion, declares under penalty of perjury, and pursuant to 28 U.S.C.

§ 1746, as follows:

1. I am the Plaintiff in this lawsuit. I submit this Declaration in partial opposition to Defendants' motion for partial summary judgment.

2. On October 28, 2020, while incarcerated at Gouverneur Correctional Facility, I and several other incarcerated individuals smoked synthetic marijuana, also known as "K2," inside the bathroom of our housing unit at Gouverneur. I felt intoxicated from the K2, and so apparently did the others, since we were all laughing, dancing, and otherwise acting silly inside the bathroom. However, neither I nor anyone else in the bathroom was yelling, screaming, or acting in a manner that one reasonably could interpret as being in distress.

3. At some point after we smoked the K2, Correction Officer Matthew Marra entered the bathroom, observed me and some of the other individuals, stood in the

entrance to the bathroom, and ordered all of us to leave the bathroom. The other individuals complied and quickly exited the bathroom, and I then attempted to exit the bathroom as well. While walking toward the exit, I shimmied, or wiggled, my hips in a manner which, in retrospect, reasonably could have been interpreted by Officer Marra as being disrespectful toward him. At no point, however, did I “lunge” at Officer Marra, raise a hand to him, approach him in a rapid manner, or do anything else that could reasonably be interpreted as an attempt to assault or threaten him.

4. As I was attempting to walk past Officer Marra, and was already facing *away* from him, I felt him grab me from behind by one of my arms and twist it behind my back. Then, without warning, and without first saying anything to me, Officer Marra did what seemed like some type of judo maneuver, or something that one would see in a World Wrestling Foundation event—i.e., he thrust his hip into me, flipped me in the air, and body-slammed me face-first to the concrete floor, causing me to sustain physical injuries. I then lay stunned and immobile on the ground while Officer Marra placed me in handcuffs behind my back, without my posing any resistance.

5. Officer Marra then activated his personal alarm system, causing other officers, some of whom are Defendants in this lawsuit, to respond to the scene. When the other officers responded, Officer Marra falsely told them that he brought me to the ground because I had lunged at him.

6. I then was taken from the scene by the other officers to an infirmary strip frisk room, where additional force was used against me, causing me to sustain additional physical injuries. Since that additional force is not a subject of Defendants’ summary

judgment motion, I will not address in this Declaration the nature of the force that was used against me at that time.

7. From the strip frisk room, I was taken to the prison's infirmary in severe pain, particularly in my left ribs, and I started to experience what felt like a seizure. I then was transported by ambulance to Gouverneur Hospital, where I underwent x-rays and other tests and was diagnosed with, among other injuries, four fractured ribs on my left side. Before my October 28, 2020 interaction with Officer Marra, I never sustained a fractured rib nor had any significant pain in the area of my ribs.

8. On November 5, 2020, I then was photographed and interviewed regarding the events of October 28. Correction Officers Craig Weidner and Kreg Jackson were both present when I was being photographed and when I was being interviewed. After the photographs and interview, I was beaten by Officers Weidner and Jackson, causing me to sustain yet additional injuries, including a perforated eardrum.

Dated: February 22, 2024


MICHAEL McCALLION